

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

STEVEN W. EVERLING,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:14-cv-00024-TWP-DML
	)	
PATRICK RAGAINS, THOMAS	)	
BRODERICK, COUNTY OF MADISON,	)	
JANE DOE, and JOHN DOE,	)	
	)	
Defendants.	)	
	)	
	)	

**NOTICE OF INTENT TO DISMISS WITHOUT PREJUDICE**

The only remaining defendants in this action are Jane Doe and John Doe. The claims against the Doe defendants are asserted against “All Defendants” in the Complaint. (Filing No. 1 at ECP p. 15 and 21). Under federal law, a plaintiff may name a fictitious defendant and utilize discovery to learn the defendant’s proper identity. However, although there is no prohibition on filing suit against unknown defendants, “John Doe defendants must be identified and served within 120 days of the commencement of the action against them.” *Aviles v. Village of Bedford Park*, 160 F.R.D. 565, 567 (N.D.Ill.1995); *see also* Fed.R.Civ.P. 4(m) (“If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant....”). See *Redd v. Dougherty*, 578 F.Supp.2d 1042, 1048 (N.D. ILL. 2008).

Mr. Everling filed his Complaint on January 9, 2014. More than 120 days have passed since the filing of his Complaint, and the unknown defendants have not been identified or served. Accordingly, Mr. Everling is **ordered** to file an amended complaint which identifies the Doe

Defendants and perfect service on these defendants or show good cause for his failure to do so within **fourteen (14) days** of this Order. Failure to do so will result in the Court dismissing without prejudice Defendants Jane Doe and John Doe.

**SO ORDERED.**

Date: 3/26/2015



TANYA WALTON PRATT, JUDGE  
United States District Court  
Southern District of Indiana

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